



The Commonwealth of Massachusetts

Office of Campaign & Political Finance

One Ashburton Place, Boston 02108

727-3352

Dennis J. Duffin
Director

May 10, 1988
AO-88-16

James J. Wolfgang
Assistant Director
State Office of Employee Relations
One Ashburton Place
Boston, MA 02108

Dear Mr. Wolfgang:

This letter is in response to your request for an advisory opinion concerning the application of M.G.L. c.55 to your political activities as a public employee.

You have stated that you are a public employee employed by the commonwealth. You intend to run for a seat in the Massachusetts State Senate. In running, you plan to have no involvement, either directly or indirectly, in the soliciting or receiving of any funds or other things of value on behalf of your candidacy. You will be establishing a campaign finance committee with a treasurer, to solicit and receive campaign funds or anything of value on behalf of your candidacy.

Section 13 of M.G.L. c.55 states:

"No person employed for compensation, other than an elected officer, by the commonwealth or any county, city or town shall directly or indirectly solicit or receive any gift, payment, contribution, assessment, subscription or promise of money or other thing of value for the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever, but this section shall not prevent such persons from being members of political organizations or committees. The soliciting or receiving of any gift, payment, contribution, assessment, subscription or promise of money or other thing of value by a non-elected political committee organized to promote the candidacy for public office of a person so employed for compensation by the commonwealth or any county,

city or town, shall not be deemed to be a direct or indirect solicitation or receipt of such contribution by such person; provided, however, that no such gift, payment, contribution, assessment, subscription or promise of money or other thing of value may be solicited or received on behalf of such a person from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is subject of his official responsibility."

You have asked the following questions:

1. Are you permitted to continue your employment with the commonwealth until such time as you may have to resign if elected to the office you seek?

No provision of M.G.L. c.55, including section 13, mandates that a public employee relinquish his or her employment with the commonwealth in order to seek elected office. You may not, however, solicit contributions directly or indirectly, in person or in writing, while so employed. If you were to take an unpaid leave of absence of four months or more before the primary election, you would not be considered "employed for compensation" by this office and therefore not subject to prohibitions of section 13 of M.G.L. c.55.

We would also advise you to examine other regulations or policies which may be applicable to you, such as those that may be promulgated by the Executive Office for Administration and Finance.

2. Can your campaign finance committee solicit and receive funds or anything of value on behalf of your candidacy from public employees?

Your campaign finance committee may solicit and receive contributions for your candidacy from public employees, subject to the prohibition in section 13 of M.G.L. c.55 against the solicitation or receipt of funds "from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular matter in which the person so employed participates or has participated in the course of such employment or which is

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the subject of his official responsibility".

You should be aware however of the following provisions in the law:

Section 16 of M.G.L. c.55 states: "No person in the public service shall, for that reason, be under obligation to contribute to any political fund, or to render any political service, and shall not be removed or otherwise prejudiced for refusing to do so."

Section 17 of M.G.L. c.55 states: "No officer or employee of the commonwealth or of any county, city or town shall discharge, promote, or degrade an officer or employee, or change his official rank or compensation, or promise or threaten so to do, for giving, withholding or neglecting to make a contribution of money or other valuable thing for a political purpose."

3. Can your name be used on solicitations for funds by your campaign committee, i.e. for campaign fundraisers or direct mail fundraisers?

In the opinion of this office, the use of your name in the letter head of a solicitation letter, appearing as "Committee to Elect James Wolfgang," or in a similar fashion, would not be a solicitation by you but by your political committee. The use of your name in the letterhead in such a fashion would be permitted. Furthermore, the committee would not be prohibited from mentioning your name in the letter, provided it is not used in any way which would suggest a solicitation by you.

4. Can your campaign finance committee solicit and receive funds or anything of value on behalf of your candidacy from (a) any public labor union with which you are involved in the course of your employment with the commonwealth, or (b) municipal labor unions with which you have no direct involvement in the course of your employment but which are affiliated with the state level public labor unions with which you do have a direct involvement?

Please note that while a political committee organized on behalf of a public employee candidate may solicit and receive funds, it may not do so "from any person or combination of persons if such person so employed knows or has reason to know that the person or combination of persons has an interest in any particular

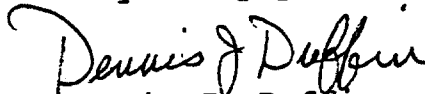
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matter in which the person so employed participates or has participated in the course of such employment or which is he subject of his official responsibility." In the course of soliciting contributions, your political committee is subject to this limitation, and it is the opinion of this office that you should solicit neither from those labor unions with which are directly involved nor from those labor unions with which you have no direct involvement but which are affiliated with labor unions over which you do exercise control or oversight responsibility.

This opinion has been rendered solely on the basis of representations made in your letter and solely in the context of M.G.L. c.55. If the state agency for which you work receives federal funds, you may be subject to restrictions under federal law in addition to those imposed by state law. Additionally, other statutes and regulations, such as M.G.L. c.268, section 9A may be applicable to your activities.

Please do not hesitate to contact this office should you have additional questions.

Very truly yours,


Dennis J. Duffin
Director

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